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Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by 29 U.S.C. 656; 5 U.S.C. App. 2; 29 CFR part 1912a; 41 CFR part 102-3; and Secretary of Labor's Order No. 8-2020 (85 FR 58393, Sept. 18, 2020).

Signed at Washington, DC, on September 26, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

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DEPARTMENT OF LABOR

Wage and Hour Division

Minimum Wage for Federal Contracts Covered by Executive Order 14026, Notice of Rate Change in Effect as of January 1, 2023

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Wage and Hour Division (WHD) of the U.S. Department of Labor (the Department) is issuing this notice to announce the applicable minimum wage rate for workers performing work on or in connection with federal contracts covered by Executive Order 14026, Increasing the Minimum Wage for Federal Contractors (the Executive Order or the order). Beginning on January 1, 2023, the Executive Order 14026 minimum wage rate that generally must be paid to workers performing work on or in connection with covered contracts will increase to \$16.20 per hour, while the required minimum cash wage that generally must be paid to tipped employees performing work on or in connection with covered contracts will increase to \$13.75 per hour. Similar contracts that were entered into, renewed, or extended prior to January 30, 2022, are generally subject to a lower minimum wage rate established by Executive Order 13658 of February 12, 2014, Establishing a Minimum Wage for Contractors.

DATES: These new Executive Order 14026 wage rates shall take effect on January 1, 2023.

FOR FURTHER INFORMATION CONTACT:

Amy DeBisschop, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Alternative formats are available upon request by calling 1-866-487-9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Executive Order 14026 Background and Requirements for Determining Annual Increases to the Minimum Wage Rate

On April 27, 2021, President Joseph R. Biden, Jr. signed Executive Order 14026, "Increasing the Minimum Wage for Federal Contractors." 86 FR 22835. In relevant part, Executive Order 14026 raised the hourly minimum wage paid by federal contractors to workers performing work on or in connection with certain covered Federal contracts to \$15.00 per hour, beginning January 30, 2022, with annual adjustments for inflation thereafter in amounts determined by the Secretary of Labor. *Id.*

Executive Order 14026 directed the Secretary to issue regulations to implement the order's requirements. *See* 86 FR 22836. Accordingly, after engaging in notice-and-comment rulemaking, the Department published a final rule on November 24, 2021, implementing Executive Order 14026. *See* 86 FR 67126. The final regulations, set forth at 29 CFR part 23, established standards and procedures for implementing and enforcing the minimum wage protections of Executive Order 14026.¹

Executive Order 14026 and its implementing regulations require the Secretary to determine the applicable minimum wage rate for workers performing work on or in connection with covered contracts on an annual basis, beginning January 1, 2023. *See* 86 FR 22835-36; *see also* 29 CFR 23.10(b)(2), 23.50(a)(2), 23.120(a). Sections 2(a) and (b) of Executive Order 14026 establish the methodology that

¹ Based on an order issued by the U.S. Court of Appeals for the Tenth Circuit on February 17, 2022, the minimum wage requirements of the final rule implementing Executive Order 14026 are not currently being enforced as to "contracts or contract-like instruments entered into with the federal government in connection with seasonal recreational services or seasonal recreational equipment rental for the general public on federal lands." The final rule's requirements remain in effect for all other contracts subject to the rule.

the Secretary must use to determine the annual inflation-based increases to the minimum wage rate. *See* 86 FR 22835-36. These provisions, which are implemented in 29 CFR 23.50(b)(2), explain that the applicable minimum wage determined by the Secretary for each calendar year shall be:

- Not less than the amount in effect on the date of such determination;
- Increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (United States city average, all items, not seasonally adjusted), or its successor publication, as determined by the Bureau of Labor Statistics (BLS); and
- Rounded to the nearest multiple of \$0.05.

Section 2(b) of Executive Order 14026 further provides that, in calculating the annual percentage increase in the CPI-W for purposes of determining the new minimum wage rate, the Secretary shall compare such CPI-W for the most recent month, quarter, or year available (as selected by the Secretary prior to the first year for which a minimum wage is in effect) with the CPI-W for the same month in the preceding year, the same quarter in the preceding year, or the preceding year, respectively. *See* 86 FR 22835-36. To calculate the annual percentage increase in the CPI-W, the Department elected in its final rule implementing Executive Order 14026 to compare such CPI-W for the most recent year available with the CPI-W for the preceding year. *See* 29 CFR 23.50(b)(2)(iii). Consistent with the regulations implementing Executive Order 13658, *see* 29 CFR 10.5, the Department explained that it decided to compare the CPI-W for the most recent year available (instead of using the most recent month or quarter, as allowed by the order) with the CPI-W for the preceding year, "to minimize the impact of seasonal fluctuations on the Executive order minimum wage rate." 86 FR 67167.

Once a determination has been made with respect to the new minimum wage rate, Executive Order 14026 and its implementing regulations require the Secretary to notify the public of the applicable minimum wage rate on an annual basis at least 90 days before any new minimum wage takes effect. *See* 86 FR 22835; 29 CFR 23.50(a)(2), 23.120(c)(1). The regulations explain that the Administrator of the Department's Wage and Hour Division (the Administrator) will publish an annual notice in the **Federal Register** stating the applicable minimum wage rate at least 90 days before any new minimum wage takes effect. *See* 29 CFR

23.120(c)(2)(i). Additionally, the regulations state that the Administrator will provide notice of the Executive Order minimum wage rate on <https://sam.gov/content/wage-determinations>, or any successor site; on all wage determinations issued under the Davis-Bacon Act (DBA), 40 U.S.C. 3141 *et seq.*, and the Service Contract Act (SCA), 41 U.S.C. 6701 *et seq.*; and by other means the Administrator deems appropriate. See 29 CFR 23.120(c)(2)(ii)–(iv).

Section 3 of Executive Order 14026 explains the application of the order to tipped workers. 86 FR 22836. It provides that for workers covered by section 2 of the order who are tipped employees pursuant to section 3(t) of the FLSA, 29 U.S.C. 203(t), the cash wage that must be paid by an employer to such workers shall be at least: (i) \$10.50 an hour, beginning on January 30, 2022; (ii) beginning January 1, 2023, 85 percent of the wage in effect under section 2 of the order, rounded to the nearest multiple of \$0.05; and (iii) beginning January 1, 2024, and for each subsequent year, 100 percent of the wage in effect under section 2 of the order. 86 FR 22836. Where workers do not receive a sufficient additional amount of tips, when combined with the hourly cash wage paid by the employer, such that their total earnings are equal to the minimum wage under section 2 of the order, section 3 requires that the cash wage paid by the employer be increased such that the workers' total earnings equal the section 2 minimum wage. *Id.* Consistent with applicable law, if the wage required to be paid under the SCA, 41 U.S.C. 6701 *et seq.*, or any other applicable law or regulation is higher than the wage required by section 2 of the order, the employer must pay additional cash wages sufficient to meet the highest wage required to be paid. 86 FR 22836.

Because Executive Order 14026 is still in its first year of implementation, the Executive Order 14026 minimum wage and the cash wage required for tipped employees are currently at their initial amounts of \$15.00 and \$10.50 per hour, respectively.²

² Contracts of the same kind as are covered by Executive Order 14026 and that were entered into, renewed, or extended prior to January 30, 2022, are generally subject to Executive Order 13658 and its lower minimum wage requirements. The Executive Order 13658 minimum wage and the cash wage

II. The 2023 Executive Order 14026 Minimum Wage Rate

Using the methodology set forth in Executive Order 14026 and summarized above, the Department must first determine the annual percentage increase in the CPI–W (United States city average, all items, not seasonally adjusted), as published by BLS, to determine the new Executive Order 14026 minimum wage rate. In calculating the annual percentage increase in the CPI–W, the Department must compare the CPI–W for the most recent year available with the CPI–W for the preceding year. The Department therefore compares the percentage change in the CPI–W between the most recent year (*i.e.*, the most recent four quarters) and the prior year (*i.e.*, the four quarters preceding the most recent year). The Department then increases the current Executive Order minimum wage rate by the resulting annual percentage change and rounds to the nearest multiple of \$0.05.

To determine the Executive Order 14026 minimum wage rate beginning January 1, 2023, the Department therefore calculated the CPI–W for the most recent year by averaging the CPI–W for the four most recent quarters, which consist of the first two quarters of 2022 and the last two quarters of 2021 (*i.e.*, July 2021 through June 2022). This produced an average index level of 277.2779.³ The Department then compared that data to the average CPI–W for the preceding year—257.0463—which consists of the first two quarters of 2021 and the last two quarters of 2020 (*i.e.*, July 2020 through June 2021). Based on this methodology, the Department determined that the annual percentage increase in the CPI–W (United States city average, all items, not seasonally adjusted) was 7.871 percent ($(277.2779 \div 257.0463) - 1$). The Department then applied that annual percentage increase of 7.871 percent to the current Executive Order 14026 minimum wage (\$15.00 per hour), which resulted in an hourly wage rate of \$16.181 ($(\$15.00 \times 0.07871) +$

required for tipped employees are currently \$11.25 and \$7.90 per hour, respectively. See 86 FR 51683.

³ In 1988, the reference base for the CPI–W was changed from 1967=100 to 1982–84=100. The 1982–84 period was chosen to coincide with the updated expenditure weights which were based on the Consumer Expenditure Surveys for the years 1982, 1983 and 1984.

\$15.00); however, pursuant to Executive Order 14026, the updated minimum wage rate must be rounded to the nearest multiple of \$0.05.

Accordingly, effective January 1, 2023, the new minimum wage rate that must generally be paid to workers performing on or in connection with contracts covered by Executive Order 14026 will be \$16.20 per hour. A poster reflecting this new Executive Order 14026 minimum wage rate is set forth at Appendix B.

III. The 2023 Executive Order 14026 Minimum Cash Wage for Tipped Employees

As noted above, section 3 of Executive Order 14026 provides a methodology to determine the amount of the minimum hourly cash wage that must be paid to tipped employees performing on or in connection with covered contracts. In relevant part, section 3(a)(ii) of the Executive order specifies that, for calendar year 2023, the minimum hourly cash wage for tipped employees shall increase to 85 percent of the wage in effect under section 2 of the order, rounded to the nearest multiple of \$0.05. See 86 FR 22836; see also 29 CFR 23.280(a)(1)(ii). Eighty-five percent of the new Executive Order 14026 minimum wage rate of \$16.20 is \$13.77 ($\$16.20 \times 0.85$). Because the Executive Order provides that the rate must be rounded to the nearest \$0.05, the new minimum hourly cash wage for tipped workers performing on or in connection with covered contracts will—effective on January 1, 2023—be \$13.75 per hour.

IV. Appendix

The Appendix to this notice provides a chart of the CPI–W data published by BLS that the Department used to calculate the new Executive Order 14026 minimum wage rate based on the methodology explained herein.

Martin J. Walsh,
Secretary of Labor.

Appendix A: Data Used To Determine Executive Order 14026 Minimum Wage Rate Effective January 1, 2023

Data Source: Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W)

(United States city average, all items, not seasonally adjusted)

	Quarter 3			Quarter 4			Quarter 1			Quarter 2			Annual average
2020Q3 to 2021Q2	252.636	253.597	254.004	254.076	253.826	254.081	255.296	256.843	258.935	261.237	263.612	266.412	257.0463
2021Q3 to 2022Q2	267.789	268.387	269.086	271.552	273.042	273.925	276.296	278.943	283.176	284.575	288.022	292.542	277.2779
Annual Percentage Increase ..	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	7.871%

Appendix B: Updated Version of the Executive Order 14026 Poster

BILLING CODE 4510-27-C

WORKER RIGHTS UNDER EXECUTIVE ORDER 14026

FEDERAL MINIMUM WAGE FOR CONTRACTORS

\$16.20

 PER HOUR

EFFECTIVE JANUARY 1, 2023 – DECEMBER 31, 2023

The law requires certain employers to display this poster where employees can easily see it.

MINIMUM WAGE Executive Order 14026 (EO) requires that federal contractors pay workers performing work on or in connection with covered contracts at least (1) \$15.00 per hour beginning January 30, 2022, and (2) beginning January 1, 2023, and every year thereafter, an inflation-adjusted amount determined by the Secretary of Labor in accordance with the EO and appropriate regulations. The EO hourly minimum wage in effect from January 1, 2023 through December 31, 2023 is \$16.20.

TIPS Covered tipped employees must be paid a cash wage of at least \$13.75 per hour effective January 1, 2023 through December 31, 2023. If a worker's tips combined with the required cash wage of at least \$13.75 per hour paid by the contractor do not equal the EO hourly minimum wage for contractors, the contractor must increase the cash wage paid to make up the difference. Certain other conditions must also be met.

EXCLUSIONS

- The EO minimum wage may not apply to some workers who provide support "in connection with" covered contracts for less than 20 percent of their hours worked in a week.
- The EO minimum wage may not apply to certain other occupations and workers.

ENFORCEMENT The U.S. Department of Labor's Wage and Hour Division (WHD) is responsible for enforcing this law. WHD can answer questions about your workplace rights and protections, investigate employers, and recover back wages. All WHD services are free and confidential. Employers cannot retaliate or discriminate against someone who files a complaint or participates in an investigation. WHD will accept a complaint in any language. You can find your nearest WHD office at <https://www.dol.gov/whd/local/> or call toll-free 1(866) 4US-WAGE (1-866-487-9243). We do not ask workers about their immigration status. We can help.

ADDITIONAL INFORMATION

- The EO applies only to new federal construction and service contracts, as defined by the Secretary in the regulations at 29 CFR part 23.
- Workers with disabilities whose wages are governed by special certificates issued under section 14(c) of the Fair Labor Standards Act must also receive no less than the full EO minimum wage rate.
- Some state or local laws may provide greater worker protections; employers must follow the law that requires the highest rate of pay.
- More information about the EO is available at: www.dol.gov/agencies/whd/government-contracts/eo14026.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

1-866-487-9243
TTY: 1-877-889-5627
www.dol.gov/agencies/whd



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[FR Doc. 2022-20906 Filed 9-29-22; 8:45 am]

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DEPARTMENT OF LABOR**Wage and Hour Division****Minimum Wage for Federal Contracts Covered by Executive Order 13658, Notice of Rate Change in Effect as of January 1, 2023****AGENCY:** Wage and Hour Division, Department of Labor.**ACTION:** Notice.

SUMMARY: The Wage and Hour Division (WHD) of the U.S. Department of Labor (the Department) is issuing this notice to announce the applicable minimum wage rate for workers performing work on or in connection with federal contracts covered by Executive Order 13658, Establishing a Minimum Wage for Contractors (the Executive Order or the order), beginning January 1, 2023. Beginning on that date, the Executive Order 13658 minimum wage rate that generally must be paid to workers performing work on or in connection with covered contracts will increase to \$12.15 per hour, while the required minimum cash wage that generally must be paid to tipped employees performing work on or in connection with covered contracts will increase to \$8.50 per hour. Covered contracts that are entered into on or after January 30, 2022, or that are renewed or extended (pursuant to an option or otherwise) on or after January 30, 2022, are generally subject to a higher minimum wage rate established by Executive Order 14026 of April 27, 2021, Increasing the Minimum Wage for Federal Contractors.

DATES: These new Executive Order 13658 rates shall take effect on January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Amy DeBisschop, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Alternative formats are available upon request by calling 1-866-487-9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:**I. Executive Order 13658 Background and Requirements for Determining Annual Increases to the Minimum Wage Rate**

Executive Order 13658 was signed on February 12, 2014, and raised the hourly minimum wage for workers performing work on or in connection with covered federal contracts to \$10.10 per hour, beginning January 1, 2015, with annual adjustments thereafter in an amount determined by the Secretary pursuant to the order. *See* 79 FR 9851. The Executive Order directed the Secretary to issue regulations to implement the order's requirements. *See* 79 FR 9852. Accordingly, after engaging in notice-and-comment rulemaking, the Department published a final rule on October 7, 2014, to implement the Executive Order. *See* 79 FR 60634. The final regulations, set forth at 29 CFR part 10, established standards and procedures for implementing and enforcing the minimum wage protections of the order.

Executive Order 13658 and its implementing regulations require the Secretary to determine the applicable minimum wage rate for workers performing work on or in connection with covered contracts on an annual basis, beginning January 1, 2016. *See* 79 FR 9851; 29 CFR 10.1(a)(2), 10.5(a)(2), 10.12(a). Sections 2(a) and (b) of the order establish the methodology that the Secretary must use to determine the annual inflation-based increases to the minimum wage rate. *See* 79 FR 9851. These provisions, which are implemented in 29 CFR 10.5(b)(2), explain that the applicable minimum wage determined by the Secretary for each calendar year shall be:

- Not less than the amount in effect on the date of such determination;
- Increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (United States city average, all items, not seasonally adjusted), or its successor publication, as determined by the Bureau of Labor Statistics (BLS); and
- Rounded to the nearest multiple of \$0.05.

Section 2(b) of Executive Order 13658 further provides that, in calculating the annual percentage increase in the CPI-W for purposes of determining the new minimum wage rate, the Secretary shall compare such CPI-W for the most recent month, quarter, or year available

(as selected by the Secretary prior to the first year for which a minimum wage is in effect) with the CPI-W for the same month in the preceding year, the same quarter in the preceding year, or the preceding year, respectively. *See* 79 FR 9851. To calculate the annual percentage increase in the CPI-W, the Department elected in the final rule implementing the Executive Order to compare such CPI-W for the most recent year available with the CPI-W for the preceding year. *See* 29 CFR 10.5(b)(2)(iii). In the final rule, the Department explained that it decided to compare the CPI-W for the most recent year available (instead of using the most recent month or quarter, as allowed by the order) with the CPI-W for the preceding year, "to minimize the impact of seasonal fluctuations on the Executive Order minimum wage rate." 79 FR 60666.

Once a determination has been made with respect to the new minimum wage rate, Executive Order 13658 and its implementing regulations require the Secretary to notify the public of the applicable minimum wage rate on an annual basis at least 90 days before any new minimum wage takes effect. *See* 79 FR 9851; 29 CFR 10.5(a)(2), 10.12(c)(1). The regulations explain that the Administrator of the Department's Wage and Hour Division (the Administrator) will publish an annual notice in the **Federal Register** stating the applicable minimum wage rate at least 90 days before any new minimum wage takes effect. *See* 29 CFR 10.12(c)(2)(i). Additionally, the regulations state that the Administrator will provide notice of the Executive Order minimum wage rate on Wage Determinations OnLine (WDOL), <http://www.wdol.gov>, or any successor site;¹ on all wage determinations issued under the Davis-Bacon Act (DBA), 40 U.S.C. 3141 *et seq.*, and the Service Contract Act (SCA), 41 U.S.C. 6701 *et seq.*; and by other means the Administrator deems appropriate. *See* 29 CFR 10.12(c)(2)(ii)-(iv).

Section 3 of Executive Order 13658 requires contractors to pay tipped employees covered by the order performing on or in connection with covered contracts an hourly cash wage

¹ WDOL.gov has since moved to <https://sam.gov/content/wage-determinations>. This website is the authoritative and single website for obtaining appropriate Service Contract Act and Davis-Bacon Act wage determinations for each official contract action.